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C O N F I D E N T I A L SECTION 01 OF 02 ANKARA 001247

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SUBJECT: IF TURKEY'S RULING PARTY IS CLOSED, WHAT THEN?

Classified By: Ambassador Ross Wilson for reasons 1.4(b),(d)

11. (SBU) Summary. The chance Turkey's Constitutional Court will close the ruling Justice and Development Party (AKP) has Turks checking their constitutions to plan their post-closure moves. Even those betting the Court will penalize the party with something short of closure are preparing for the worst case scenario of a ban against the party, PM Erdogan and other AKPers. Turkey has been through similar upheavals before; in the event of closure, the procedure for a relatively smooth and rapid turnover is largely prescribed by the constitution. End summary.

12. (U) If the Court decides to close AKP, the ban takes effect once the ruling is published in the Official Gazette. The party dissolves and all AKP MPs become independent deputies. AKPers can form a new party by filing a petition with the Interior Ministry stating the party's name and founding members; if at least 20 MPs join, they can establish a new parliamentary group in parliament (i.e. "AKP2"). Even if all 38 AKP MPs named in the closure indictment are banned -- an unlikely scenario -- AKP2 would retain 301 seats, 25 more than required to form a single-party government. The new party would need to appear sufficiently distinct from AKP or run the risk of being banned for violating the spirit of the Court's decision. If some AKP deputies decline to join the new party, either remaining as independents or joining other parties, AKP2 might not retain the 276 seats needed for a majority government.

13. (U) If Erdogan and others are banned from party politics, they will lose their seats immediately -- and their parliamentary immunity -- creating vacancies. Erdogan would step down as prime minister, an acting PM would be designated either by Erdogan or President Gul (the process is unclear), and Gul would hand the mandate to form a new government to a sitting MP. FM Babacan, Justice Minister Sahin, Transportation Minister Yildirim, Deputy PM Cicek and Deputy PM Hayati Yazici, a close Erdogan ally, are among the rumored candidates. The current cabinet would likely remain in place until a new government is established. Once the president approves the PM-designate's Council of Ministers (cabinet), the proposed government's program must be read to parliament within a week, followed by debate and a vote of confidence -- a maximum 12-day process if all goes smoothly.

14. (SBU) In the unlikely event the PM-designate fails to get a vote of confidence, Gul would ask another MP to try. If, after 45 days, a new government has not been established, the president could call for general elections. Election logistics are handled by the Supreme Election Board, which indicated prior to July 2007 elections that 90 days are

generally needed to organize parliamentary elections. Local elections, now scheduled for March 2009, would likely be moved up in the event early parliamentary elections are called. AKP MP Mevlut Cavusoglu and other AKPers are confident the party would win even more votes than in 2007 if AKP is banned and new elections held. Others are not so sure.

15. (U) Parliament, also constitutionally authorized to call for early elections, could do so in order for Erdogan to regain a seat as an independent, according to contacts. AKP could also orchestrate a by-election, but this approach is considered vulnerable to challenge by those who argue a ban prohibits Erdogan and other banned MPs from serving in the current 23rd parliament. If re-elected, Erdogan would be prevented from heading a political party but Gul could hand him the mandate to form a government as an independent deputy. With several court cases pending against him, Erdogan may be anxious to regain his parliamentary immunity. His opponents would likely try to block any attempts to return him to parliament.

16. (U) Many doubt the Court will ban President Gul, also named in the indictment, because the constitution clearly states the president can only be removed for treason. Should the Court nevertheless decide to ban Gul, he would likely be forced to resign. Speaker Koksal Toptan would step in as acting president until elections could be organized. Since switching from parliamentary to direct presidential elections pursuant to a referendum last October, little progress has been made on the technicalities of conducting direct elections.

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17. (C) By a normal reading of the constitution, party members cannot be banned unless the party is banned as well. Contacts agree, however, that this Court has indulged in creative interpretations of other constitutional provisions; the judges could well find a way to ban Erdogan and other AKPers without banning the party itself. Though the indictment mentions banning members from party politics for five years, those who contend Erdogan's banishment is the real objective behind the closure case speculate the Court may impose a permanent ban on the PM. Erdogan would remain a popular figure but AKP MP Murat Mercan told us holding AKPers together under a less charismatic leader would be challenging. If Erdogan were permanently banned, Mercan suggested President Gul would resign to become chair of the new party, with the Speaker becoming acting president. Gul, who resigned his parliamentary seat upon taking the presidency, could not be appointed prime minister but would be accepted as chairman by AKP MPs and grass-roots supporters. Mercan felt confident Gul would assume the role, if needed: "He knows the party's future is more important than the presidency."

18. (C) Comment. We still wager that it is more likely the Court will ban AKP and remove Erdogan than not, but we do not expect the Court to remove Gul. We also judge it unlikely Gul would leave the presidency if Erdogan is banned, but not impossible in the strange universe of Turkish politics. Whatever the outcome, most observers here expect the Court to act within the next 4 to 5 weeks. End comment.

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